

CHAPTER 12
CLAIMS FOR INDIGENT DEFENSE LEGAL SERVICES

493—12.1(13B,815) Definitions.

“Attorney” means an individual licensed to practice law by the Iowa Supreme Court.

“Attorney time” means the total time an attorney appointed to a case spends on in-court time, out-of-court time, and travel time attributable to that specific case.

“Case” means all charges or allegations arising from the same transaction or occurrence contained in the same trial information or indictment in a criminal proceeding or in the same petition in a civil or juvenile proceeding.

“Court-appointed attorney” means an attorney appointed by the court to represent an indigent person whether or not the attorney has a contract with the state public defender.

“Fee limitations” means the limitations established by the state public defender for specific classes of cases.

“Fees” means the consideration paid to an attorney appointed by the court to represent an indigent.

“Good cause” means a sound, effective and truthful reason. It is something more than an excuse, plea, apology, extenuation, or some justification. Inadvertence or oversight does not constitute good cause.

“In-court time” means time spent by the attorney appointed to a case engaged before a judge or jury in arraignments, bail hearings, pretrial conferences, pretrial motion hearings, evidentiary hearings, jury selection, trial, plea proceedings, posttrial hearings, and probation violation hearings.

“Indigent” means a person entitled to legal representation as defined in Iowa Code section 815.9 as amended by 1999 Iowa Acts, Senate File 451, section 27.

“Out-of-court time” means time actually spent by the attorney appointed to the case in drafting documents, case preparation, depositions and other discovery, client or witness interviews, investigation, research, brief drafting, conferences or negotiations with opposing counsel or the court, obtaining or reviewing records, and other productive case-related time that is not “in-court time” or “travel time.”

“Paralegal time” means time actually spent by someone other than the attorney appointed to the case which would be “out-of-court time” if performed by the attorney appointed to the case with the following exceptions. Paralegal time does not include any time spent on the case if the attorney appointed to the case also charges for the same activity. In addition, paralegal time does not include time spent making photocopies, sending faxes, mailing documents, answering phones, scheduling, or other similar clerical activities.

“Travel time” means the reasonable and necessary time spent by the attorney in automobile travel under one of the following circumstances:

1. To and from the scene of a crime;
2. To and from the location of a trial, if the venue has been changed from the county in which the crime occurred;
3. To and from the place of incarceration of a client in a postconviction relief case, criminal appeal, or postconviction relief appeal;
4. To and from the location of the placement of a child in a juvenile case, if required by statute and court order to visit the placement and the placement is outside the county in which the case is pending; or
5. Other travel for which prior authorization is obtained from the state public defender.

“Written” as used in these rules may include electronically transmitted communication to the extent permitted by subsequent rules of the state public defender.

493—12.2(13B,815) Submission and payment of claims. Court-appointed attorneys shall submit written claims to the state public defender for review, approval and payment. These claims shall include the following:

1. A completed request for compensation on a form promulgated by the state public defender.
2. A copy of the signed order appointing the attorney to the case.
3. A copy of any application and court order authorizing the attorney to exceed the fee limitations.
4. An itemization detailing all work done on the case for which the attorney seeks compensation.

The itemization shall separately report time claimed for in-court time and out-of-court time.

5. A certification by the attorney that a copy of the itemization has been filed with the clerk of the trial court.
6. A statement of the disposition of the case.
7. If the claim is an interim claim, a statement of the total amount paid on all prior claims filed in the case.

Payment for services shall be made only after all reporting requirements have been complied with and the claim has been approved by the state public defender.

493—12.3(13B,815) Interim claims. Approval of or payment of any interim claim shall not affect the right of the state public defender to review any subsequent claims or the aggregate amount of the claims submitted. Claims will be paid only at the conclusion of the case, unless one of the following applies:

12.3(1) Juvenile cases. Initial claims for services in juvenile cases may be submitted after the dispositional hearing, if any. Subsequent claims may be submitted after each hearing held in the case.

12.3(2) Appellate cases. A claim for work done to date by an attorney having an appellate contract with the state public defender may be submitted in appellate cases after filing of the attorney's proof brief. A subsequent claim may be submitted at the conclusion of the case.

12.3(3) Specific cases. Interim claims in Class A felony cases, Class B felony cases, cases under Iowa Code chapter 229A, and cases defined in Iowa Code section 902.12 may be submitted once every three months with the first claim submitted at least 90 days following the effective date of the attorney's appointment.

12.3(4) Other cases. In all other cases, claims filed prior to the conclusion of the case will not be paid except with prior written consent of the state public defender.

493—12.4(13B,815) Fee limitations. The state public defender establishes fee limitations for combined attorney time and paralegal time in the following particular categories of cases:

Class A felonies	\$15,000
Charges defined in Iowa Code section 902.12	\$3,500
Class B felonies	\$3,000
Class C felonies	\$1,200
Class D felonies	\$1,000
Aggravated misdemeanors	\$1,000
Serious misdemeanors	\$500
Simple misdemeanors	\$200
Contempt/show cause proceedings	\$200
Proceedings under Iowa Code chapter 229A	\$10,000
Probation violation	\$250
Delinquency (through disposition)	\$1,000
Child in need of assistance (CINA) (through disposition)	\$1,000
Termination of parental rights (through disposition)	\$1,500
Juvenile review hearings (postdispositional hearings)	\$200
Judicial bypass hearings	\$150
Appeals to supreme court	\$2,000
Postconviction relief—the greater of \$1,000 or 1/2 of charge for which relief is sought	

12.4(1) *Claims in excess of fee limitations.* Claims will not be paid in excess of the fee limitations unless an attorney seeks and obtains authorization from the appointing court to exceed the fee limitations prior to exceeding the fee limitations. If authorization to exceed the fee limitations is granted, payments in excess of the fee limitations shall be made only for services performed after the date of submission of the request for authorization to exceed the fee limitations.

Nothing contained in this subrule is intended to in any manner diminish, increase, or modify the state public defender's authority to review any and all claims for services as authorized by the Iowa Code.

12.4(2) *Retroactivity of authorization.* Authorization to exceed the fee limitations shall be effective only as to services performed after an application to exceed the fee limitations is filed with the court unless the court enters an order specifically authorizing a late filing of the application and finding that good cause exists that excuses the attorney's failure to timely file the application to exceed the fee limitations.

12.4(3) *Applicability to juvenile cases.* For a child in need of assistance case that becomes a termination of parental rights case, the fee limitations shall apply to each phase of the case separately.

493—12.5(13B,815) Rate of compensation. Unless an attorney has a contract with the state public defender that provides for a different manner or rate of payment, the following hourly rates are deemed reasonable compensation and shall apply to payment of all claims for cases to which an attorney is appointed after June 30, 1999:

		Out-of-Court Time	In-Court Time
Attorney time	Class A felonies	\$60/hour	\$60/hour
	Class B felonies	\$55/hour	\$55/hour
	All other cases, including all appeals	\$50/hour	\$50/hour
Paralegal time		\$25/hour	N/A

Claims for compensation in excess of these rates are not payable under the attorney’s appointment and will be reduced pursuant to 1999 Iowa Acts, Senate File 451, section 5.

Claims for services rendered prior to the effective date of the attorney’s appointment are not payable under the attorney’s appointment and will be reduced pursuant to 1999 Iowa Acts, Senate File 451, section 5.

12.5(1) *Appointments before July 1, 1999.* In cases to which the attorney was appointed prior to July 1, 1999, attorney time shall be paid at a rate that is \$5 per hour less than the above rates.

Claims for compensation in excess of these rates are not payable under the attorney’s appointment and will be reduced pursuant to 1999 Iowa Acts, Senate File 451, section 5.

12.5(2) *Applicability to juvenile cases.* In juvenile cases to which the attorney was appointed prior to July 1, 1999, the state public defender will pay the attorney at the above-referenced rate in the table above for all services performed following the dispositional hearing or the first regularly scheduled review hearing occurring after June 30, 1999. However, the attorney must file a separate claim for services before and after said hearing.

493—12.6(13B,815) Reimbursement for specific expenses. The state public defender will reimburse the attorney for the payments made by the attorney to investigators, court reporters and expert witnesses if the following conditions exist:

1. The attorney obtained court approval to conduct depositions or hire an investigator or expert witness prior to incurring any expenses with regard to each.
2. A copy of the application and order granting authority accompanies the claim.
3. The investigator, court reporter or expert witness does not submit a claim for the same services.
4. The attorney is seeking reimbursement for moneys already expended or certifies that the funds for these services will be paid to the investigator, court reporter or expert witness.

Claims for expenses that do not meet these conditions are not payable under the attorney’s appointment and will be denied pursuant to 1999 Iowa Acts, Senate File 451, section 5.

493—12.7(13B,815) Reimbursement of other expenses. The state public defender will reimburse an attorney for the following out-of-pocket expenses incurred by the attorney in the case:

1. Mileage for travel outside the county in which the attorney’s office is located at the rate of 24 cents per mile;
2. Lodging and meals, when required to be away from one’s home overnight for hearings and trials at the state-approved rate;
3. Necessary photocopying at the attorney’s office at the rate of 10 cents per copy;

4. Photocopying for which the attorney must pay at the actual cost of photocopying;
5. Postage, toll calls, collect calls, faxes and parking for the actual cost of these expenses;
6. Other specific expenses for which prior approval by the state public defender is obtained.

Claims for expenses other than these or at rates in excess of the rates set forth herein are not payable under the attorney's appointment and will be reduced or denied pursuant to 1999 Iowa Acts, Senate File 451, section 5.

These rules are intended to implement Iowa Code chapters 13B and 815 as amended by 1999 Iowa Acts, Senate File 451.

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